

Environmental Protection Agency

§ 35.935-12

elements of step 3 construction has not occurred within 12 months of the award for the step 3 project (or approval of plans and specifications, in the case of a step 2=3 project). (See definition of "initiation of construction" under "construction" in § 35.905.) However, the Regional Administrator may defer (in writing) the annulment or termination for not more than 6 additional months if:

- (1) The grantee has applied for and justified the extension in writing to the Regional Administrator;
- (2) The grantee has given written notice of the request for extension to the NPDES permit authority;
- (3) The Regional Administrator determines that there is good cause for the delay in initiation of project construction; and
- (4) The State agency concurs in the extension.

§ 35.935-10 Copies of contract documents.

In addition to the notification of project changes under § 30.900 of this chapter, a grantee must promptly submit to the Regional Administrator a copy of any prime contract or modification of it and of revisions to plans and specifications.

§ 35.935-11 Project changes.

(a) In addition to the notification of project changes required under § 30.900-1 of this chapter, the Regional Administrator's and (where necessary) the State agency's prior written approval is required for:

- (1) Project changes which may—
 - (i) Substantially alter the design and scope of the project;
 - (ii) Alter the type of treatment to be provided;
 - (iii) Substantially alter the location, size, capacity, or quality of any major item of equipment; or
 - (iv) Increase the amount of Federal funds needed to complete the project.However, prior EPA approval is not required for changes to correct minor errors, minor changes, or emergency changes; and
- (2) Subagreement amendments amounting to more than \$100,000 for which EPA review is required under §§ 35.937-6(b) and 35.938-5 (d) and (g).

(b) No approval of a project change under § 30.900 of this chapter shall obligate the United States to any increase in the amount of the grant or grant payments unless a grant increase is also approved under § 35.955. This does not preclude submission or consideration of a request for a grant amendment under § 30.900-1 of this chapter.

§ 35.935-12 Operation and maintenance.

(a) The grantee must make provision satisfactory to the Regional Administrator for assuring economic and effective operation and maintenance of the treatment works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency.

(b) As a minimum, the plan shall include provision for:

- (1) An operation and maintenance manual for each facility;
- (2) An emergency operating and response program;
- (3) Properly trained management, operation and maintenance personnel;
- (4) Adequate budget for operation and maintenance;
- (5) Operational reports;
- (6) Provisions for laboratory testing and monitoring adequate to determine influent and effluent characteristics and removal efficiencies as specified in the terms and conditions of the NPDES permit;
- (7) An operation and maintenance program for the sewer system.

(c) Except as provided in paragraphs (d) and (e) of this section, the Regional Administrator shall not pay—

- (1) More than 50 percent of the Federal share of any step 3 project unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft; or
- (2) More than 90 percent of the Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual.

(d) In projects where segmenting of an operable treatment works has occurred, the Regional Administrator shall not pay—

(1) More than 50 percent of the Federal share of the total of all interdependent step 3 segments unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft, or

(2) More than 90 percent of the Federal share of the total of all interdependent step 3 segments unless the grantee has furnished a satisfactory final operation and maintenance manual.

(e) In multiple facility projects where an element or elements of the treatment works are operable components and have been completely constructed and placed in operation by the grantee, the Regional Administrator shall not make any additional step 3 payment unless the operation and maintenance manual (or those portions associated with the operating elements of the treatment works) submitted by the grantee has been approved by the Regional Administrator.

§ 35.935-13 Submission and approval of user charge systems.

The grantee shall obtain the approval of the Regional Administrator of its system of user charges. (See also § 35.929 *et seq.*)

(a) *Step 3 grant assistance awarded under regulations promulgated on February 11, 1974.* (1) Except as paragraph (a)(2) of this section provides, the grantee must obtain the Regional Administrator's approval of its system of user charges based on actual use which complies with § 35.929-1(a). The Regional Administrator shall not pay more than 50 percent of the Federal share of any step 3 project unless the grantee has submitted adequate evidence of timely development of its system of user charges nor shall the Regional Administrator pay more than 80 percent of the Federal share unless he has approved the system.

(2) A grantee which desires approval of a user charge system based on ad valorem taxes in accordance with § 35.929-1(b) shall submit to the Regional Administrator by July 24, 1978, evidence of compliance of its system with the criteria in § 35.929-1 (b)(1) through (b)(3). As soon as possible, the Regional Administrator shall advise the grantee

if the system complies with § 35.929-1 (b)(1). The Regional Administrator's determination may be appealed in accordance with subpart J, "Disputes," of part 30 of this subchapter.

(i) *Grantees whose ad valorem tax systems meet the criteria of § 35.929-1 (b)(1) through (b)(3).* Any step 3 payments held by the Regional Administrator at 50 percent or 80 percent for failure to comply with the requirement for development of a user charge system shall be released. However, the grantee shall obtain approval of its user charge system by June 30, 1979 or no further payments will be made until the system is approved and the grants may be terminated or annulled.

(ii) *Grantees whose ad valorem tax systems do not meet the criteria of § 35.929-1 (b)(1) through (b)(3).* Step 3 grants will continue to be administered in accordance with paragraph (a)(1) of this section.

(b) *Step 3 grant assistance awarded after April 24, 1978, but before July 1, 1979.* The grantee must obtain approval of its user charge system based on actual use or ad valorem taxes before July 1, 1979. The Regional Administrator may not make any payments on these grants, may terminate or annul these grants, and may not award any new step 3 grants to the same grantee after June 30, 1979, if the user charge system has not been approved. The Regional Administrator shall approve the grantee's user charge or ad valorem tax rates and the ordinance required under § 35.929-2(e) and the grantee shall enact them before the treatment works constructed with the grant are placed in operation.

(c) *Step 3 grant assistance awarded after June 30, 1979.* The Regional Administrator may not award step 3 grant assistance unless he has approved the user charge system based on actual use or ad valorem taxes. The Regional Administrator shall approve the grantee's user charge or ad valorem tax rates and the ordinance required under § 35.929-2(e) and the grantee shall enact them before the treatment works constructed with the grant are placed in operation.